

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ERIC L. JEFFRIES,)	CASE NO. C-1-02-351
	:	
Plaintiff,)	JUDGE BECKWITH
	:	Magistrate Judge Hogan
v.)	
	:	
CENTRE LIFE INSURANCE CO., et. al.,)	
	:	
Defendants.)	

**MOTION FOR CONTINUANCE OF TIME TO OPPOSE DEFENDANT'S
MOTION AND MEMORANDUM IN SUPPORT TO EXCLUDE
TESTIMONY BASED ON PET AND SPECT SCANS**

The plaintiff hereby requests a continuance of time to oppose defendant's *Daubert* "Motion and Memorandum In Support To Exclude Testimony Based On Pet And Spect Scans" (the "Pet/Spect Motion"). (Doc. 116).

This Court's most recent scheduling order requires plaintiff to file a written opposition to the Pet/Spect Motion by December 24, 2003, and be prepared for an oral hearing on the Pet/Spect Motion by January 8, 2004. Because plaintiff has not been afforded the opportunity to depose the expert upon whose opinions the Pet/Spect Motion lies (all as documented in Doc. 119), this continuance is required. A memorandum in support is attached.

Respectfully submitted,

OF COUNSEL

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Memorandum In Support

On December 12, 2003, the defendant filed a *Daubert* "Motion and Memorandum In Support To Exclude Testimony Based On Pet And Spect Scans" (the "Pet/Spect Motion"). (Doc. 116). This Court's most recent scheduling order requires plaintiff to file a written opposition to the Pet/Spect Motion by December 24, 2003, and be prepared for an oral hearing on the Pet/Spect Motion by January 8, 2004.

Since defendant's Pet/Spect Motion relies almost entirely on the opinions of Dr. Kirk Frey for support, and for the reasons set forth in plaintiff's Motion To Continue Deposition Deadline and Deadline For Filing Daubert Motion Regarding Dr. Kirk Frey (Doc. 119), which are incorporated herein, the plaintiff hereby seeks an extension of time to file his memorandum opposing the Pet/Spect Motion until he has been afforded the opportunity to take Dr. Frey's deposition, consult with experts, and prepare the appropriate response.

This request for continuance will not require the continuance or extension of the trial date or summary judgment deadline since the inclusion or exclusion of the Pet/Spect evidence will bear no impact on a Rule 56 analysis of Mr. Jeffries' bad faith claim or defendant's counterclaim and burden of proving that benefits payable to Mr. Jeffries for his undisputed disability are contractually limited.

Respectfully submitted,

OF COUNSEL

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CERTIFICATE OF SERVICE

The foregoing was delivered, via email Mail to William R. Ellis, Esq., Wood & Lamping LLP, 600 Vine Street, Suite 2500, Cincinnati, Ohio 45202, this 20th day of December, 2003.

/s Michael A. Roberts